

Formalizing Data Sharing and Legal Frameworks



**United
Nations**

DESA
Statistics Division



Collaborative
on Administrative Data

Legal Frameworks



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Statistical legal framework

- In the majority of countries, the development, production, and dissemination of official statistics are regulated by a **dedicated legal framework**.
- The extent and coverage of the statistical legal framework **differ among countries**, depending on factors such as the age of the law and its approach.
 - Does the framework encompass the entire National Statistical System?
 - Does it incorporate provisions regarding data access and sharing?
 - What about confidentiality and privacy safeguards?
- The statistical legal framework typically **intersects with other legal frameworks** in the country.

Generic Law on Official Statistics [GLOS]

- Developed by UNECE with the support of Eurostat, EFTA and UNSD as a **model** law.
- Based on the UN **Fundamental Principles of Official Statistics**.
- To sustain the transformation and modernization of NSS, the GLOS is intended to **be updated regularly**.
- Not a law about the NSS we have but about the **NSS we want!**



The GLOS on the mandate for Data Collection

- Data for official statistics may be drawn from all types of sources, e.g., statistical surveys (primary sources) or other sources (secondary sources).
- Producers of Official Statistics (NSS) choose the data sources based on professional considerations, especially **quality, costs and the burden on respondents**.
- **The law grants the right to NSOs to access administrative records for statistical purposes at the required level of granularity and with identifiers.**
- Producers of Official Statistics have **sole responsibility** for deciding methods and procedures for the collection, processing and storage of data sources.
- The NSO collects and/or accesses data exclusively for statistical purposes and ensures that individual data is protected against **misuse and unlawful disclosure** (statistical confidentiality).

Why is it relevant to know and evaluate the statistical legal framework for admin data?

- It's vital in **meeting the increasing demand** for accurate and timely information.
- It facilitates NSOs' access to administrative data for official statistics, enabling public authorities to obtain **better data for results-based management** and the **effective implementation and monitoring** of government programs.
- **Public-private dialogue is strengthened** through **increased trust** between civil society and institutions in the public sector. This fosters **greater collaboration** to tackle development challenges.
- **It promotes efficiency** by encouraging data sharing instead of redundant data collection, **preventing efficient use of public resources**.

Without a statistical legal framework that includes access to administrative data...

If there is **no legal mandate** allowing NSOs to access admin data ...

- ✓ NSOs become **vulnerable and dependent** on the willingness of political authorities and public officials to share their admin data.
- ✓ Access to admin data is **not ensured on a continuous basis**, thus affecting the regular delivery of official statistics.
- ✓ Access to admin data is **not necessarily in the format or frequency** required to produce timely and high-quality statistics.
- ✓ Risk that admin data owner produces “statistics,” without following statistical guidelines and procedures, publishing **indicators of low quality**.

The law is meant to enable and not to hinder modernization of statistics and data sharing.



The statistical legal framework regarding administrative data

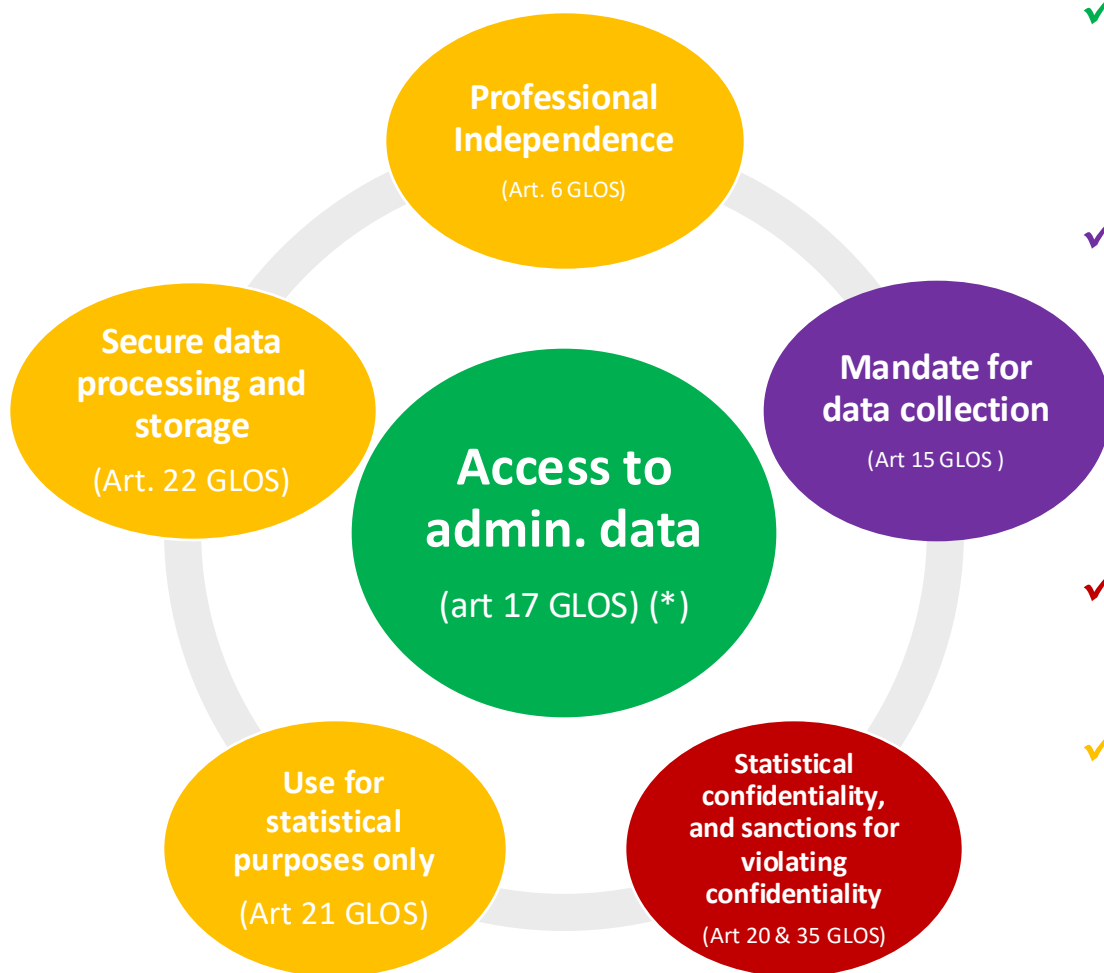
Is it enough to incorporate in the law that NSOs/ NSS should have unrestricted access to admin data for official statistic purposes?

→ NO, IT 's NOT!

So, what exactly should we look for in the legal statistical framework in order to ensure access to admin data and its use by producers of official statistics?

→ A set of conditions, allowing for access to admin data and enabling TRUST in NSOs and members of the NSS!

Key elements of the legal framework regarding admin data



- ✓ Access to AD: Providers of AD must allow for unrestricted access to their data and ensure conditions that guarantee the continuous provision of AD for statistical purposes.
- ✓ Mandate for data collection: NSO/NSS should select data sources based on professional considerations (e.g. quality of statistics, costs of data provision and response burden) and allow to share databases among producers of official statistics.
- ✓ Safeguarding statistical confidentiality: crucial for strengthening trust from informants and from AD providers
- ✓ Professional independence, use of data for statistical purposes only, and secure data processing and storage are all elements that enhance trust from AD providers on the NSO/NSS, and so their willingness to share data for statistical purposes.

(*) Articles of the GLOS refers to the UN Generic Law of Official statistics.

The legal framework's interaction with other laws

- **Access to Public Information Law (Transparency Law)**
 - ✓ In many countries, a Transparency Law exists alongside the statistical law, but it often fails to explicitly mention the exemption of data protected by statistical confidentiality from access to information.
 - ✓ There is a potential risk that the transparency authority may reinterpret the law's scope, disregarding statistical confidentiality and leading to conflicts among institutions.
 - ✓ To mitigate this risk, it is vital to explicitly exclude data protected by statistical confidentiality from the scope of the Transparency Law.

The legal framework's interaction with other laws

- **Personal Data Protection (PDP) Law:**
 - ✓ The PDP law should explicitly permit access to administrative data for official statistical purposes.
 - ✓ The PDP Law must not hinder the ability of official statistical producers to access administrative data by removing the requirement for explicit authorization from individuals/households to use their data for statistical purposes.
 - ✓ The PDP Law should be developed and enforced in coordination with the statistical law, as the latter already includes stringent provisions to ensure confidentiality and protect personal data.

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 - ✓ The PDP Law should be developed and enforced in coordination with the statistical law, as the latter already includes stringent provisions to ensure confidentiality and protect personal data.
- Other ministries' legal frameworks can be perceived to be in conflict with the statistical legal framework. (e.g. Justice, civil registration, environmental laws)
- What other laws could hinder NSOs from accessing administrative data for exclusively statistical purposes?

A close-up photograph of a wooden desk where a document is being signed. A hand holds a black pen, writing on a white sheet of paper. Another hand points to a section of the document. A third hand is visible in the background, resting on the desk. The document is held by a silver clipboard. The text 'Data sharing arrangements' is overlaid in a large, bold, dark blue font.

Data sharing arrangements

Flexible approaches to Data Sharing



Different levels of formality of agreements are needed based on existing contexts. For example:

- Is a Statistics Act in place? Is it sufficient in scope to enable administrative data sharing for official statistics?
- And is it accepted/enforced?
- Are data currently/already being shared?
- Will aggregate or micro data be shared?

Formal and informal data sharing arrangements

- Cooperation happens through:
 - **Signed agreements** and with top-level management involved (formal).
 - **Building relationships** with staff in other institutions, meetings, and joint work at technical level (informal).
- Both forms of engagement and cooperation are important in working with administrative data.
- **Ideally, both are pursued by the NSS institutions in parallel.**

Formalised cooperation

- Formal engagement can happen through various forms of **data exchange agreements** between two or more institutions.
- The most common approach is through **Memorandums of Understanding (MoUs)**.
- Other approaches include formal exchange of letters (on a general basis, not per exchange), formal agreements and other instruments.
- For all of these, the details of the agreement are included in writing and normally **signed by management** of all the institutions involved.

A formal data sharing arrangement can help:

- **Overcome challenges** to getting data including unpredictable data delivery timeframes, varying formats, the need for extensive follow-up and reminders, and interruptions of data delivery due to staff turnover.
- **Deal with sensitive or confidential data** and help ensure that there is mutual understanding on the measures and infrastructure.
- **Foster win-win situations.** MoUs can include two-way exchanges with returns to the data-producing agency such as analysis, indicators, training, quality assessment.
- **Improve data quality** over time by having multiple actors assessing opportunities to improve the quality of data.
- **Improve relationships and understanding** among the exchanging institutions

MoUs and legal frameworks

Irrespective of whether there is a statistical legal framework in a country, **formalising cooperation through an MoU is a good idea**, as it provides continuity to the agreement and exchange protocols independently of who is in charge.

Without an existing statistical legal framework in a country, it can take a long time to develop and approve one with sufficient protections and scope to enable sharing administrative data. In the absence of a legal framework (or while one is being created), developing formal agreements can be particularly useful to ensure access and exchange.



Example: Bhutan

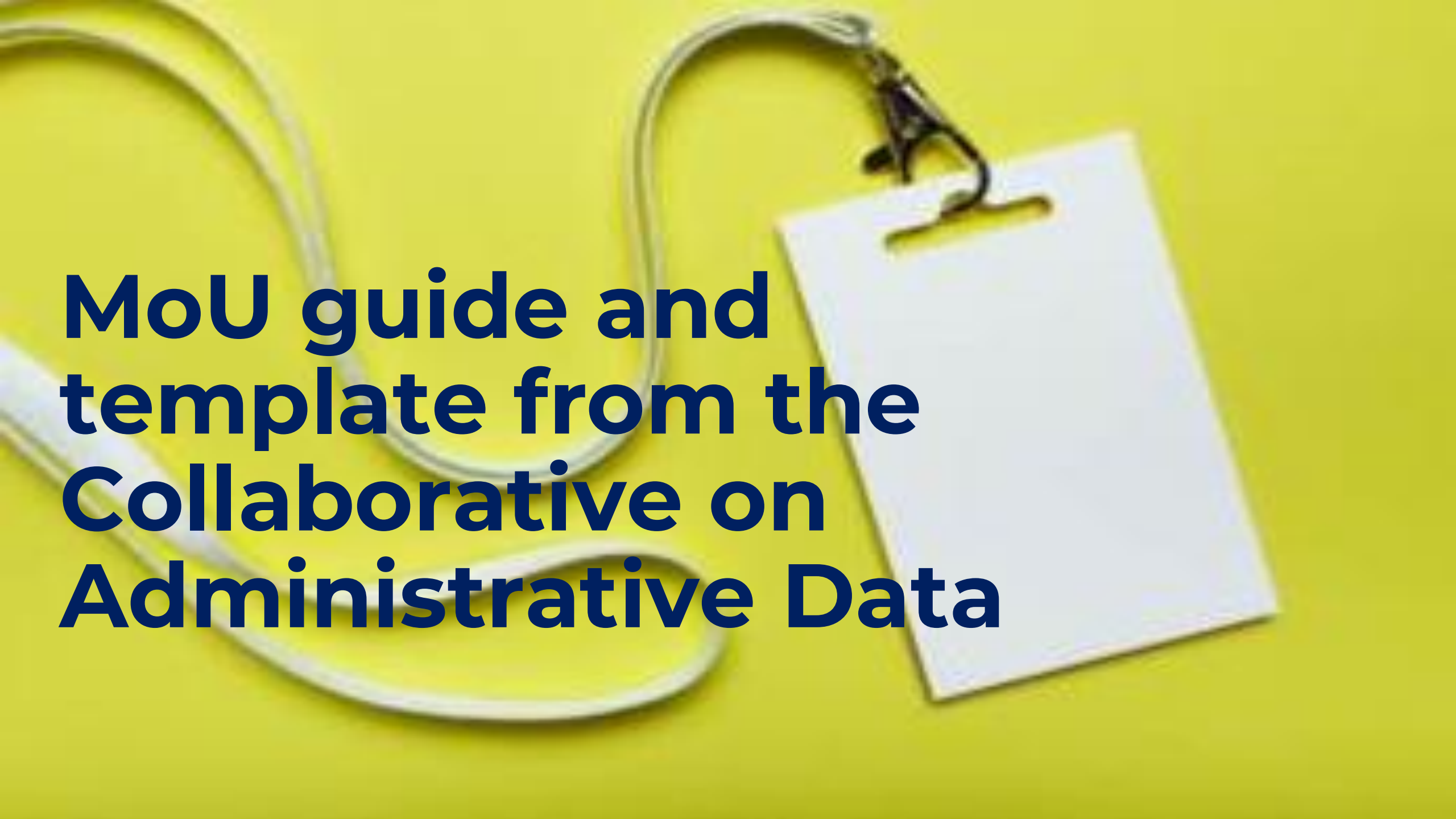
- Bhutan is a small country without a statistical legal framework
- Bhutan has mostly relied upon more informal arrangements, at aggregate level of sharing, i.e. letters with data requests.
- Moving forward, Bhutan plans increase regular sharing of more detailed data.
- Parties agree that formalization of data sharing is important.
- Signing MoUs requires government approval, so the parties will sign data sharing agreements instead.

How to develop and maintain an MoU

1. Bring together a team develop the MoU draft.
2. Review legal arrangements.
3. Map current data availability and quality.
4. Assess overall coordination on data and statistics.
5. Discuss what should be included in the MoU.
6. Plan for regular exchanges to check in on implementation and progress.



The CAD's MoU Guide and Template can help you through this process!

A yellow background with a white lanyard and a blank white card. The lanyard is coiled on the left side of the image. The card is on the right side, held by a small metal clip. The text is in a bold, dark blue font, centered on the left side of the image.

MoU guide and template from the Collaborative on Administrative Data

Approach of the MoU template and guideline



Practical: Examples from real MoUs between NSOs and different agencies.



Flexible: Suggestions, not prescriptions; examples from different contexts, and different degree of complexity.



General: Not within any particular domain (i.e. economic data), the template can be adapted to different domains.



Comprehensive: Considers elements countries should think of in advance.

Link to guide: <https://unstats.un.org/capacity-development/admin-data/docs/mou-guide-and-template.pdf>

Template of MoU

Annex B: MoU template

Parties:

A Memorandum of Understanding

between:

<Data owner>

and

<NSO>

Place and date:

<Name of the data owner>

<NSO>

<Head of department/agency>

<Head of NSO>

Definitions

Agreement: Agreement or the agreement means this data exchange agreement, with accompanying appendices.

Receiving authority: The receiving authority means <NSO>, which has entered into the agreement and which receives information in accordance with this agreement.

Personal data: Personal data means the information defined as personal data in the legislation in force at any given time.

Parties: means <NSO> and <data owner>.

Identifier: means a Person's name, address, telephone number or other direct means of identifying that Person.

...

Purpose

The purpose of this MoU is to establish the terms and conditions under which data is shared between the <data owner> and the NSO. It aims to ensure that the parties to the agreement have a common understanding of the process and their responsibilities in sharing the data from <data owner> to the <NSO>. The objectives of this agreement are as follows:

1. To regulate practical conditions concerning the timely and reliable delivery of data.
2. To ensure collaboration between NSO and <data owner> toward the improvement of data quality.
3. To streamline the flow of data within the NSS thereby reducing processing time, resource use and the overall reporting burden.

Duration

This agreement is valid from the date of signing until it is terminated in writing by one of the parties with 6 months' notice.

Legal basis

This agreement relates to issues and objectives raised in key policy documents with a view to strengthening the role of the NSO in the coordination of the National Statistical System. Documents include: ...

These strategic objectives as defined in the NSS are as follows: [adapt for country]

- To further strengthen statistical legislation, institutional infrastructure, or independence of the NSO and operational, financial and administrative management to support statistical production and development.

- Improve coordination of the NSS to eliminate data conflicts and ensure data consistency.

- Requirement of all statistics producers and data providers to produce high quality data by following the national quality assurance framework; in particular, statistics users' needs in terms of relevance, accuracy, reliability, timeliness, punctuality, coherence and comparability.

The processes being introduced as part of this exercise will change the way in which the NSO operates. Therefore, NSO members need to cooperate with the NSO to ensure that they adopt management practices that comply with their obligations covered by the Statistics Act.

[quote or reference to legal basis]



Responsibilities of the parties

The parties to the agreement shall strive to remain up-to-date on the relevant laws, regulations and directives that may be applicable at any given time. Delivery and use of the information shall, at all times, be in compliance with applicable laws and rules, including any reporting and registration procedures laid down by public authorities.

Responsibilities of the NSO

The NSO shall carry out appropriate quality assurance and validation of the data received professionally, effectively and to a high standard and shall provide feedback to <data owner> regarding:

- Information on errors and omissions in the individual unit in the material received
- Feedback on quality problems at an aggregate level based on analyses of other data sources to which the NSO has access
- Proposals for checks that can/should be implemented by the data owner
- Proposals for measures aimed at strengthening data quality

The NSO shall work together with <data owner> to improve the quality of <data owner>'s administrative data.

The reports/quality indicators that the NSO will send to <data owner> are stipulated in <Appendix X> to this agreement.

Where <data owner> plans to create new statistics, make major changes to ongoing statistics, or conduct a major statistical survey, the NSO must be informed of this as soon as possible in the planning stage so that the consideration to the harmonisation of statistics can be protected.

Data

[This section is to be adapted to the individual department/agency, and will mainly be regulated by Appendix 1]

This agreement covers the sharing of aggregated data

The specification of data to be delivered shall be included as an annual update to Appendix 1 to this agreement.

SAMPLE APPENDIX 1: FORMAT FOR DATA AND METADATA SHARING IN PRACTICE

Description of data	Metadata structures	Format	Periodicity	Means of Transmission
Health worker density and distribution, Time Series. Columns: [Indicator name], [Administrative level], [Administrative unit name], [Administrative unit code], [Years - one column per year 2000 - latest available], Aggregate numbers of health workers per administrative unit per year.	• Indicator information, • Data reporter (organization and contact persons), • Definition and concepts, • Data sources and collection methods, • Method of computation, • Data availability and disaggregation, • Comparability with international standards, • References	Excel file	Annual - 1 September	Email
...				

Confidentiality

Both parties shall use appropriate safeguards to protect the data from misuse and unauthorized access or disclosure, including maintaining adequate physical controls and password protections for any server or system on which the data is stored, ensuring that data is not stored on any mobile device (for example, a laptop or

smartphone) or transmitted electronically unless encrypted, and taking any other measures reasonably necessary to prevent any use or disclosure of the data other than as allowed under this agreement.

Amendments

Either party may request changes to this agreement. Any changes, modifications, revisions or amendments to this agreement which are mutually agreed upon by and between the parties to this agreement shall be incorporated by written instrument, and effective when executed and signed by all parties to this agreement.



Elements of a Memorandum of Understanding

- 1. Parties**
- 2. Purpose**
- 3. Legal basis**
- 4. Duration**
- 5. Obligations / responsibilities**
- 6. Incentives**
- 7. Responsible parties / focal points**
- 8. Data and metadata**
- 9. Data Quality standards**
- 10. Confidentiality and security**
- 11. Amendments**
- 12. Use of the information**

Elements of an MoU

Parties	Normally a description of the parties, describing briefly the institutions.
Purpose	This section of sets out in general terms the intention of the new agreement. It can include a description of the data to be shared, the organizations involved, the motivations behind the agreement, the directionality of the sharing, and how and for what purpose the data will be used.
Legal Basis	It refers to specific sections of the national Statistics Act or other legal documents which govern the exchange of data between government entities.
Duration	Specifies the term for which the data sharing agreement is valid.
Obligations/ responsibilities of parties	It lists the expectations on each of the parties and the agreed actions. It might include the responsibilities that will be assumed by each of the parties independently, as well as the joint responsibilities.
Incentives	One element that can be an independent section is related to the incentives to foster data exchange. These incentives can be of different nature and have different implications for the parties.
Responsible parties/ focal points	Responsible parties or focal points in the organizations taking part in the data sharing arrangements should be designated,

...continued

Data <ul style="list-style-type: none">• Description of the data• Periodicity• Format• Means of transmission	It is important to determine the scope and nature of the data to be shared. <ul style="list-style-type: none">• Detailed description of the data to be shared, with exact data fields and metadata structures• Specific when and how often new data should be shared• Format in which the data and metadata are to be transmitted• Means by which data will travel from one entity of the NSS to another, and the technical solution specified to exchange the data
Quality Standards	In some cases, MoUs can establish quality standards that the data that is going to be shared should comply with.
Confidentiality and security	This section is normally always included if micro data are shared between the parties. It specifies the legal obligations of the NSO when it comes to keep the data received confidential ..
Amendments	It specifies the procedure for amending the agreement or modifying the process.
Use of the information	This clause specifies the use of the information collected from the data owner.

MoU development team

The team who develops the MoU should include the following expertise from the agencies involved/who will sign the MoU:

- Management
 - The management ensures that the MoU is in line with overall goals of the institutions and also have a role in signing the MoU.
 - They do not need to participate in all meetings but should be kept informed.
- Technical/subject matter experts
 - The experts have a key role in ensuring that the MoU includes practical aspects that can be implemented, such as which variables to include, how to engage on data quality and in what format to exchange information. (IT experts may also be needed here.)
- Legal experts
 - Have a key role in ensuring that the MoU is aligned with existing legal frameworks.

Regular check-ins

- Some countries have shared that MoUs and other data sharing mechanisms exist, but that the MoUs are not implemented.
- Often this is because key persons have not been involved, and they don't know about the MoU, or because the MoU can't be implemented as it is not aligned with other mechanisms
- To ensure that the MoU is implemented, regular check-ins are helpful, whether every six months, annually, or as often as deemed necessary by partners.

We invite you to join the CAD
by emailing your request to:
Jmclaren@data4sdgs.org and
martina.desaverio@un.org